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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,792	04/16/2004	John Geoffrey Chan	9215	9078

27752 7590 05/12/2006

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

BALSIS, SHAY L

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/825,792	Applicant(s) CHAN ET AL.	
	Examiner Shay L. Balsis	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 21-22 and 28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims include limitations relating to a massaging element having both conical projections and ridge-like elements. The specification and the drawings do not teach or show a massaging element with both conical projections and ridge-like elements. There is only support for the massaging element to have either conical projections or ridge-like elements, not both.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12, 25 and 30 all include the limitation of a “generally circular collection of bristle tufts” however it is unclear what this terminology refers to. Does circular collection refer to the bristle shape, orientation or movement? Please clarify.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Maser et al. (USPN 4827551).

Maser teaches a toothbrush comprising an elongated handle (1) and a head (3). The elongated head comprises a longitudinal axis, a top face and bottom face. The top face comprises a brushing surface (15, figure 4) and the bottom surface comprises a massaging surface (14, figure 4). The brushing surface comprises generally circular tufts. The massaging surface comprises a plurality of projections oriented in staggered rows (figure 4).

With regards to claims 13 and 26, the projections are generally conical nubs (figure 1).

With regards to claims 14, 15, 25 and 30, the projections are in rows transverse to the longitudinal axis of the brush (figure 3) or parallel to the longitudinal axis of the brush (figures 2 and 4).

With regards to claim 16, the projections cover a substantial portion of the bottom face.

With regards to claim 17, the projections are uniform in shape (figures 1-4).

With regards to claims 18 and 27, the projections are formed from an elastic material (rubber, col. 2, lines 50-56).

With regards to claim 19, the projections are nubs (figure 1).

With regards to claim 20, the projections are conical (figure 1).

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With regards to claims 21-22 and 28, the head further comprises ridge like elements (figures 2-4) that are arcuate in shape (figures 2-4).

With regards to claim 23, the handle comprises a motor (2).

With regards to claims 24, 29, 31 and 32, the motor is connected to the brushing surface and the massaging surface (col. 2, lines 49-56; figure 4) causing the massaging surface and brushing surface to pulsate.

Claims 12-22, 25-28 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Psiharis (USPN 2253210).

Psiharis teaches a toothbrush comprising an elongated handle (10) and a head. The elongated head comprises a longitudinal axis, a top face and bottom face. The top face comprises a brushing surface (14, figure 1) and the bottom surface comprises a massaging surface (figure 4 and 5). The brushing surface comprises generally circular tufts. The massaging surface comprises a plurality of projections oriented in staggered rows (figures 4 and 5).

With regards to claims 13 and 26, the projections are generally conical nubs (30).

With regards to claims 14, 15, 25 and 30, the projections are in rows transverse to the longitudinal axis of the brush (figure 5) or parallel to the longitudinal axis of the brush (figure 4).

With regards to claim 16, the projections cover a substantial portion of the bottom face.

With regards to claim 17, the projections are uniform in shape (figures 4-5).

With regards to claims 18 and 27, the projections are formed from an elastic material (col. 2, lines 6-9).

With regards to claim 19, the projections are nubs (30; figure 4).

With regards to claim 20, the projections are conical (30).

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With regards to claims 21-22 and 28, the head further comprises ridge like elements (figure 5) that are arcuate in shape (they have a curved top surface).

Claims 12-17, 25-26 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Pfleger (USPN D287072).

Pfleger teaches a toothbrush comprising an elongated handle and a head. The elongated head comprises a longitudinal axis, a top face and bottom face. The top face comprises a brushing surface (figure 1) and the bottom surface comprises a massaging surface (figure 1). The brushing surface comprises generally circular tufts (figure 3). The massaging surface comprises a plurality of projections oriented in staggered rows (figures 1, 3 and 4).

With regards to claims 13 and 26, the projections are generally conical nubs (figure 3).

With regards to claims 14, 15, 25 and 30, the projections are in rows transverse to the longitudinal axis of the brush (figure 4) or parallel to the longitudinal axis of the brush (figure 3).

With regards to claim 16, the projections cover a substantial portion of the bottom face.

With regards to claim 17, the projections are uniform in shape (figures 1 and 7).

Claims 12, 14-19, 25 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Himmel (USPN 1125532).

Himmel teaches a toothbrush comprising an elongated handle (1) and a head (2). The elongated head comprises a longitudinal axis, a top face and bottom face. The top face comprises a brushing surface (3) and the bottom surface comprises a massaging surface (6). The brushing surface comprises generally circular tufts (figure 2). The massaging surface comprises a plurality of projections oriented in staggered rows (figures 1 and 3).

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With regards to claims 14, 15, 25 and 30, the projections are in rows transverse to the longitudinal axis of the brush (figure 1) or parallel to the longitudinal axis of the brush (figure 3).

With regards to claim 16, the projections cover a substantial portion of the bottom face.

With regards to claim 17, the projections are uniform in shape (figures 1 and 3).

With regards to claim 18, the projections are formed from an elastic material (col. 2, lines 55-59).

With regards to claim 19, the projections are nubs (10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23, 24, 29, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Psiharis ('210), Pfleger ('072) or Himmel ('532) in view of Calabrese (USPN 6654979).

Psiharis, Pfleger and Himmel teach all the essential elements of the claimed invention however fail to teach that the toothbrush is motorized. Calabrese teaches an electric toothbrush comprising bristles and massaging elements (figure 1 and 2). Even though Calabrese teaches the bristles and massaging elements located on the same side of the brush head, it is irrelevant which side they are located on since the entire brush head will vibrate. Thus if the massaging elements were located on the back side of the head, they would still vibrate when the bristles vibrate since the whole head vibrates. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Psiharis, Pfleger or Himmel's invention so that they are

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vibrating toothbrushes as taught by Calabrese so that in use the teeth are more effectively cleaned. Electric toothbrushes are known in the art to have more effectively remove plaque than manual toothbrushes and making the massaging elements vibrate along with the bristles only enhances the cleaning capabilities (col. 1, lines 34-44).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Slb
5/1/06



GLADYS L. CORCORAN
SUPERVISORY PATENT EXAMINER